Before The Hon'ble High Court of Chhattisgarh,

Judicature at Bilaspur Division Bench

W.P. No : 2142 /2005

P.R. No. 2326/05 Shri Manish Mishra
Presented by Shri Abhishek Mishra
dated 27/5/05

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M.P.S. Kushwah S/o Shri R.S. Kushwah aged 38, years, occupation coordinator (study centre/extension centre at Gwalior) of NTU, Raipur, R/o A-1, Indramani Nagar, Gole Ka Mandir, Gwalior (M.P.) through power of attorney Abhishek Mishra S/o Late Shri H.C. Mishra aged 37 years occupation Advocate R/o LIG 185, Darpan Colony Thatipur Gwalior, M.P.

.....petitioner

V/s

1. State of Chhattisgarh (Also as member of governing body of resp. no 2.) through chief secretary, Govt. of Chhattisgarh Raipur (C.G.)
2. National Technological University through members of governing body, Pachpedi Naka, Lalpur, Devpuri Post Raipur (C.G.)
3. Siva Ram M.V. Member of Governing Body of NTU, National technological university 102, Rohini Apartment 8-3-960/12, Shri Nagar Colony, Hydrabad (A.P.) - 500073 .

.....Respondents

NOTARY
T. R. Nirala
Bilaspur (C.G.)
Reg No. 14/17
23-9-02
27 MAY 2005
OF CHHATTISGARH.

A writ petition under article 226 of the constitution of India For issuance a writ of mandamus or any other appropriate order or direction in the nature of writ.

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XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P. 2142 सन् 2005

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

DIVISION BENCH
HON'BLE SHRI A.K. PATNAIK, CJ.
& HON'BLE SHRI S.K. AGNIHOTRI, J.

17-06-2005: -

Heard Shri Avinash K. Mishra counsel for the petitioner and Shri Sumesh Bajaj, Deputy Govt. Advocate for the State of Chhattisgarh.

The National Technological University was notified and established by a notification under Section 5 of the Chhattisgarh Niji Kshetra Vishwavidyalaya (Sthapana Aur Viniyaman) Adhiniyam, 2002. The University admitted 58 students in B.Ed. course for the session 2004-2005 at Gwalior (Madhya Pradesh) outside the territorial jurisdiction of the State of Chhattisgarh.

By a judgment dated 11th February, 2005 in the case of **Prof. Yashpal & Anr Vs. State of Chhattisgarh & Ors** in **Writ Petition (Civil) No.19 of 2004** the Supreme Court has declared the provisions of Sections 5 and 6 of the aforesaid Act, 2002 to be ultra vires and quashed the notifications issued by the State Government in the Gazette in purported exercise of the powers under Section 5 of the aforesaid Act notifying the Universities. In paragraph 45 of the judgment, the Supreme Court further held that in order to protect the interest of the students who may be actually studying in the institutions established by such private Universities, the State Government may take appropriate measures to have such institutions affiliated to the already existing State Universities in Chhattisgarh. The Supreme Court, however, made it clear that the benefit of affiliation to an institution shall be extended only if it fulfills the

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मामला क्रमांक ..... सन् 200

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

requisite norms and standards laid down for such purpose and not to every kind of Institution. In Paragraph 46 of the said judgment, the Supreme Court further observed that steps may be taken for affiliation of the institutions established by such private Universities to the already existing State Universities in accordance with the directions contained in paragraph 45 of the judgment and that the parties would be at liberty to approach the High Court if any dispute arises in implementation of the direction. Since the State of Chhattisgarh has failed to make any provision for allowing the 58 students in the B.Ed. course of the University studying at the Gwalior Centre in the State of Madhya Pradesh, the petitioner has filed this writ petition for directions on the State of Chhattisgarh to allow all the 58 students of the Gwalior Centre to take the B.Ed. Examinations and to complete the whole B.Ed. course in any University of the State of Chhattisgarh

In para 41 of the aforesaid judgment the Supreme Court has held that the said Act which specifically makes a provision to have an off-campus study centre outside the State is beyond the competence of the Chhattisgarh legislature because under Article 245 of the Constitution the legislature of the State of Chhattisgarh has no power to legislate with regard to any study center outside the State of Chhattisgarh. No direction, therefore, can be issued to the State of Chhattisgarh to allow 58 students admitted in the study center of the University at Gwalior outside the territory of the State of Chhattisgarh to appear in the B.Ed. Main Examination, 2005 for any University in the State of Chhattisgarh as

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..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

regular students as prayed for in the writ petition in view of the aforesaid judgment of the Supreme Court in the case of **Prof. Yashpal** (supra).

For the aforesaid reasons, we are not inclined to entertain this writ petition and we accordingly dismiss the same.

Sd/-
Chief Justice

Sd/-
Satish K. Agnihotri
Judge

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